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December 13, 1996

Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Case Nos. 960235-WS & 960283-WS

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of Citizens' Response in Opposition to Wedgefield's "Motion to Dismiss or Strike". A diskette in WordPerfect 6.1 is also submitted.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

Sincerely,

Charles J. Beck
Charles J. Beck
Deputy Public Counsel

ACK ✓
AFA 1
APP CJB:bsr
CAF Enclosure
CMU _____
CTR _____
EAG _____
LEG 1
LIN 3
OPC _____
RCH _____
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FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

2. Wedgefield's motion ignores the fact that the Citizens are entitled to a hearing on the portion of the Commission's order no. PSC-96-1241-FOF-WS issued as a proposed agency action. The Citizens filed a timely protest to the order on October 28, 1996, setting forth a series of issues related to the Commission's proposed agency action.

Those issues were:

- (a) Did Econ Utilities Corporation have in place and practice an adequate preventative maintenance program?
- (b) What was the condition of the assets sold to Wedgefield Utilities, Inc?
- © Should Wedgefield Utilities, Inc., have the burden of justifying why its actual purchase price should not be utilized in setting rates?
- (d) How should the Commission treat the contingent portion of the purchase price in computing the negative acquisition adjustment?
- (e) What is the amount of the negative acquisition adjustment from the sale of assets to Wedgefield Utilities, Inc.?
- (f) Should the Commission recognize a negative acquisition adjustment for the assets purchased by Wedgefield Utilities, Inc.?

- (g) What is the initial rate base of Wedgefield Utilities, Inc., for regulatory purposes?

The protest of proposed agency action also stated that these were the issues identified at that time and that additional issues might be identified as the case progresses.

3. Wedgefield is also apparently unfamiliar with section 350.0611(1), Florida Statutes (1995), which states in part that the Public Counsel has the power "to appear, in the name of the state or its citizens, in any proceeding or action before the Commission and urge therein any position which he deems to be in the public interest, whether consistent or inconsistent with positions previously adopted by the Commission." The Citizens may raise an issue about the acquisition adjustment in this case and take a position on that adjustment whether that position is consistent or inconsistent with positions previously adopted by the Commission.

4. At the hearing Wedgefield will have ample opportunity to argue its position on the negative acquisition adjustment. The Citizens expect to show the Commission that it should recognize the negative acquisition adjustment whether or not there has been a showing of "extraordinary circumstances," but that in any event such circumstances exist here¹. The point is that these matters are simply positions on an issue properly raised by

¹ The Citizens' Response in Opposition to Wedgefield's "Motion to Dismiss or Strike OPC Petition for Hearing," dated November 26, 1996, sets forth some of the facts showing such circumstances.

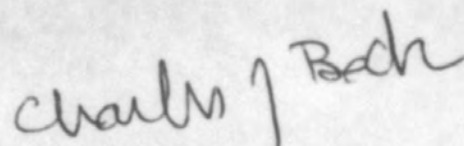
the Commission's proposed agency action and do not go to the matter of whether the Citizens are entitled to a hearing in the first place.

5. The right to a hearing is found in the case law governing points of entry in agency proceedings, in the Administrative Procedure Act (chapter 120, Florida Statutes), in section 350.0611, Florida Statutes, and in the due process provisions of the state and federal constitutions. Wedgefield's motion must be denied.

WHEREFORE, the Citizens request the Prehearing Officer to deny the "Motion to Dismiss or Strike OPC's Response in Opposition" filed by Utilities, Inc., and Wedgefield Utilities, Inc. on December 6, 1996.

Respectfully submitted,

JACK SHREVE
Public Counsel



Charles J. Beck
Deputy Public Counsel

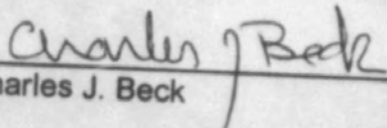
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Attorneys for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE
DOCKET NOS. 960235-WS and 960283-WS

I HEREBY CERTIFY that a copy of the foregoing has been furnished by
U.S. Mail or hand-delivery to the following parties on this 13th day of December, 1996.


Charles J. Beck

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